



ILLINOIS COMMERCE COMMISSION

May 15, 2012

Illinois-American Water Company	:	
	:	11-0767
Proposed general increase in water	:	
and sewer rates.	:	SERVED ELECTRONICALLY

NOTICE OF ADMINISTRATIVE LAW JUDGE'S RULING

TO ALL PARTIES OF INTEREST:

Notice is hereby given by the Administrative Law Judge that in its Initiating Order in Docket No. 10-0366, the Commission ordered that an audit be conducted by an independent firm "to compare the cost of each service currently obtained [by Illinois-American Water Company, or "IAWC"] from the Service Company to the cost of such services if the services were obtained through competitive bidding or on the open market." Steps and procedures to be followed were set forth in the Initiating Order. The Audit was conducted by NorthStar Consulting Group ("NorthStar"). On January 11, 2012, the "Final Report, Management Audit of the Fees Assessed to Illinois-American Water Company by Its Affiliated Service Company" ("Audit Report") prepared by NorthStar was filed on e-docket in Docket 10-0366.

On May 11, 2012, in the IAWC rate proceeding, Docket No. 11-0767, a "Joint Motion of ICC Staff and the People of the State of Illinois ["Movants"] for Entry of Evidence" ("Motion") was filed. Movants therein request that the Audit Report be entered into the evidentiary record of Docket 11-0767.

In support of and as authority for their motion, Movants cite the following language from Paragraph 7 on page 5 of the Initiating Order:

Process of moving Audit findings/results into evidentiary record in future proceedings, permissible bases for party litigation about what may be admitted into evidentiary record:

- a. Parties to any subsequent proceeding in which the Audit results are presented may contest the validity and correctness of Audit findings and their rate case revenue requirement impacts, but may not object to the Auditor's report becoming part of the evidentiary record.
- b. Staff and all parties in any subsequent proceeding in which the Audit results are presented may introduce evidence from their own witnesses in addressing or contesting the Auditor's evidence.

In a response filed May 14, 2012, IAWC expressed numerous objections to the Motion. Movants jointly filed a reply to IAWC's response on May 14, 2012.

In its response, IAWC argues, among other things, that the references in Paragraph 7 to "Audit results" or "Audit findings/results" are intended to mean "Commission results" or "Commission Audit Results" made by the Commission at the conclusion of the proceeding in Docket 10-0366 -- results that "do not yet exist" -- rather than to results contained in the Audit Report. That is, "Docket 10-0366 has not concluded," and there have been no Audit results or findings within the context of Paragraph 7. (IAWC Response at 3-7).

IADC also asserts in part that because there are no "Commission Audit Results" in Docket 10-0366, "this rate case is not a 'subsequent' or 'future' proceeding as contemplated by the Initiating Order in Docket No. 10-0366" and that no such audit results have been or could be "presented." (Id.)

The filings by IADC and Movants have been reviewed, as has the Initiating Order. The problem with IADC's position is that it is not supported by the plain language in the Commission's Initiating Order. There the references at issue are to "Audit results" and "Audit findings"-- not to "Commission Audit Results" or to "Commission findings," "Commission results" or other wording commonly used in referring to findings or determinations made in a Commission order. As such, it is reasonable to assume the references to "Audit results" and "Audit findings" are to those contained in the Audit Report filed in Docket 10-0366, which does include "Results."

With regard to whether Docket 11-0767 is a "subsequent" or "future" proceeding as contemplated by the Initiating Order in Docket No. 10-0366, the Commission also observes that Docket 10-0366 was initiated on June 2, 2010, while the rate filing in Docket 11-0767 was made on October 27, 2011. When this information is considered along with the determinations made above, it is reasonable to view Docket 11-0767 as a subsequent proceeding relative to Docket 10-0366 within the context of the Initiating Order.

Accordingly, by virtue of Paragraph 7(a) of the Initiating Order in Docket 10-0366, IADC "may not object to the Auditor's report becoming part of the evidentiary record" in 11-0767. That being the case, IADC's objections to the Motion -- other than the threshold ones addressed above -- may not be relied upon in this ruling to deny the Motion to admit the Audit Report into the evidentiary record in Docket 11-0767. Therefore, the Motion to admit the Audit Report into the evidentiary record in Docket 11-0767 is granted pursuant to the Initiating Order in Docket 10-0366, subject to normal procedural rules in Section 200.670 and other sections in the Rules of Practice.

If it wishes, IADC will be permitted to provide a response to the Audit report. The form and timing of it are questions not reached in this ruling.

Sincerely,

Elizabeth A. Rolando
Chief Clerk

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Administrative Law Judge Jones

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